

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE
ACUPUNCTURE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1A-2014-77

**LAUREN ANN MESSELBECK L.Ac.
AKA LAUREN ANN KOELLER
2313 Half Moon Bay Lane
Costa Mesa, CA 92627**


Acupuncturist License No. AC15149

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Acupuncture Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 21, 2016.

It is so ORDERED August 22, 2016.



FOR THE ACUPUNCTURE BOARD
OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 JASON J. AHN
Deputy Attorney General
4 State Bar No. 253172
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9433
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **ACUPUNCTURE BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 1A-2014-77

14 **LAUREN ANN MESSELBECK L.Ac.**
15 **AKA LAUREN ANN KOELLER**
2313 Half Moon Bay Lane
16 Costa Mesa, CA 92627

OAH No. 2016031025

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **Acupuncturist License No. AC15149**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Complainant Ben Bodea is the Acting Executive Officer of the Acupuncture Board of
24 California. He brought this action solely in his official capacity as such and is represented in this
25 matter by Kamala D. Harris, Attorney General of the State of California, by Jason J. Ahn, Deputy
26 Attorney General.

27 ///

28 ///

1 2. Respondent Lauren Ann Messelbeck, L.Ac., AKA Lauren Ann Koeller (Respondent),
2 is represented in this proceeding by attorney Frederick Ray, Esq., whose address is: 5000 Birch
3 Street, Suite 7000, Newport Beach, CA 92660.

4 3. On or about March 18, 2013, the Acupuncture Board of California issued
5 Acupuncturist’s License No. AC 15149 to Respondent. The Acupuncturist’s License was in full
6 force and effect at all times relevant to the charges brought in Accusation No. 1A-2014-77, and
7 will expire on January 31, 2017, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 1A-2014-77 was filed before the Acupuncture Board of California
10 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
11 Accusation and all other statutorily required documents were properly served on Respondent on
12 or about March 14, 2016. Respondent timely filed her Notice of Defense contesting the
13 Accusation.

14 5. A copy of Accusation No. 1A-2014-77 is attached as Exhibit A and incorporated
15 herein by reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and fully understands the
18 charges and allegations in Accusation No. 1A-2014-77. Respondent has also carefully read, fully
19 discussed with counsel, and fully understands the effects of this Stipulated Settlement and
20 Disciplinary Order.

21 7. Respondent is fully aware of her legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation No. 1A-2014-77; the right to confront
23 and cross-examine the witnesses against her; the right to present evidence and to testify on her
24 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
25 production of documents; the right to reconsideration and court review of an adverse decision;
26 and all other rights accorded by the California Administrative Procedure Act and other applicable
27 laws, having been advised of same by her attorney of record, Frederick Ray, Esq.

28 ///

1 the Board, any member thereof, and/or any other person from future participation in this or any
2 other matter affecting or involving Respondent. In the event that the Board does not, in its
3 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
4 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
5 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
6 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
7 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
8 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
9 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

10 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
11 be an integrated writing representing the complete, final, and exclusive embodiment of the
12 agreements of the parties in the above-entitled matter.

13 15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
14 including copies of the signatures of the parties, may be used in lieu of original documents and
15 signatures and, further, that such copies shall have the same force and effect as originals.

16 16. In consideration of the foregoing admissions and stipulations, the parties agree the
17 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
18 the following Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Acupuncturist's License No. AC 15149 issued to
21 Respondent Lauren Ann Messelbeck, L.Ac. is revoked. However, the revocation is stayed and
22 Respondent is placed on probation for two (2) years on the following terms and conditions:

23 **ALCOHOL AND DRUG ABUSE TREATMENT.** Effective 30 days from the date of this
24 decision, Respondent shall commence attending Twelve-Step meetings or the equivalent, as
25 approved by the Board. Attendance shall be at least three (3) times per month during the first
26 year of probation. Proof of attendance at these meetings must be submitted quarterly to the
27 Board. Failure to attend the meetings or to timely submit proof of attendance will be considered a
28 violation of probation.

1 ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND
2 SAMPLES. Respondent shall abstain completely from the personal use or possession of
3 controlled substances as defined in the California Uniform Controlled Substances Act (Division
4 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by
5 Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.
6 Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall
7 undergo random, biological fluid testing, as determined by the Board. Respondent shall bear all
8 costs of such testing. The length of time and frequency will be determined by the Board. Any
9 confirmed positive finding will be considered a violation of probation.

10 REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING. Respondent
11 shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure
12 compliance for the duration of the probation period.

13 COURSEWORK. Respondent shall take and provide evidence of successful completion of
14 the First Offender 9 month program and the MADD program ordered in the matter of the *People*
15 *of the State of California v. Lauren Ann Koeller*, Superior Court Case No. M187139.

16 OBEY ALL LAWS. Respondent shall obey all federal, state and local laws and all
17 regulations governing the practice of acupuncture in California. A full and detailed account of
18 any and all violations of law shall be reported by the respondent to the Board in writing within
19 seventy-two (72) hours of occurrence.

20 QUARTERLY REPORTS. Respondent shall submit quarterly declarations under penalty
21 of perjury on forms provided by the Board, stating whether there has been compliance with all the
22 conditions of probation.

23 SURVEILLANCE PROGRAM. Respondent shall comply with the Board's probation
24 surveillance program and shall, upon reasonable notice, report to the assigned investigative
25 district office. Respondent shall contact the assigned probation surveillance monitor regarding
26 any questions specific to the probation order. Respondent shall not have any unsolicited or
27 unapproved contact with 1) victims or complainants associated with the case outside of that
28 contact permitted by the San Diego County Superior Court in the matter of the *People of the State*

1 of California v. Lauren Ann Koeller, Superior Court Case No. M187139; 2) Board members or
2 members of its staff; or 3) persons serving the Board as expert examiners.

3 INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall appear in
4 person for interviews with the Board or its designee upon request at various intervals and with
5 reasonable notice.

6 CHANGES OF EMPLOYMENT. Respondent shall notify the Board in writing, through
7 the assigned probation surveillance compliance officer of any and all changes of employment,
8 location and address within 30 days of such change.

9 TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE. In the event respondent
10 should leave California to reside or to practice outside the State, respondent must notify the Board
11 in writing of the dates of departure and return. Periods of residency or practice outside California
12 will not apply to the reduction of this probationary period.

13 EMPLOYMENT AND SUPERVISION OF TRAINEES. Respondent shall not employ or
14 supervise or apply to employ or supervise acupuncture trainees during the course of this
15 probation. Respondent shall terminate any such supervisory relationship in existence on the
16 effective date of this probation.

17 COST RECOVERY. Respondent shall pay to the board its costs of investigation and
18 enforcement in the amount of \$2,890.00. Respondent shall be permitted to pay these costs in a
19 payment plan approved by the Board, with payments to be completed no later than six months
20 prior to the end of the probation term. Cost recovery will not be tolled. Respondent understands
21 that failure to make payments in accordance with any formal agreement entered into with the
22 board or pursuant to any Decision by the board shall be considered a violation of probation.

23 VIOLATION OF PROBATION. If respondent violates probation in any respect, the Board
24 may, after giving respondent notice and the opportunity to be heard, revoke probation and carry
25 out the disciplinary order that was stated. If an accusation or petition to revoke probation is filed
26 against respondent during probation, the Board shall have continuing jurisdiction until the matter
27 is final, and the period of probation shall be extended until the matter is final. No petition for
28 modification or termination of probation shall be considered while there is an accusation or

1 petition to revoke probation pending against respondent.

2 COMPLETION OF PROBATION. Upon successful completion of probation,
3 Respondent's license will be fully restored.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorney, Frederick Ray, Esq. I fully understand the stipulation and the
7 effect it will have on my Acupuncturist's License No. AC 15149. I enter into this Stipulated
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
9 bound by the Decision and Order of the Acupuncture Board of California.

10

11

DATED: 7/05/16



LAUREN ANN MESSELBECK, L.AC.
Respondent

12

13

14

15

16

I have read and fully discussed with Respondent Lauren Ann Messelbeck, L.Ac. the terms
and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
Order. I approve its form and content.

17

18

DATED: 7/5/16



FREDERICK RAY, ESQ.
Attorney for Respondent

19

20

///

21

///

22

///

23

///

24

///

25

///

26

///

27

///

28

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board of California.

Dated: July 11, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General



JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A
Accusation No. 1A-2014-77